

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:17-CV-1113

North Carolina Democratic Party;
Cumberland County Democratic Party;
Durham County Democratic Party;
Forsyth County Democratic Party;
Guilford County Democratic Party;
Mecklenburg County Democratic Party;
Orange County Democratic Party; and
Wake County Democratic Party,

Plaintiffs,

v.

Phillip E. Berger, in his official capacity
as President Pro Tempore of the North
Carolina Senate; Timothy K. Moore, in
his official capacity as Speaker of the
North Carolina House of
Representatives; the State of North
Carolina; the North Carolina Bipartisan
State Board of Elections and Ethics
Enforcement; and Kimberly Strach, in
her official capacity as Executive Director
of the North Carolina Bipartisan State
Board of Elections and Ethics
Enforcement,

Defendants.

**Defendants' Joint Motion for
Summary Judgment**

COME NOW Defendants, by and through the undersigned counsel and
pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 56.1 of

the Local Civil Rules, and hereby move the Court for Summary Judgment in their favor on all claims alleged against them in this action on the grounds that there is no genuine dispute as to any material fact and that Defendants are entitled to judgment as a matter of law. In support thereof, Defendants refer to the Defendants' Joint Brief in Support of their Joint Motion for Summary Judgment, filed contemporaneously herewith and show the Court as follows:

1. North Carolina Session Law 2017-214 (the "Session Law") was ratified on or about October 17, 2017. Section 4(a) of the Session Law cancelled government-run primaries for all judicial races in 2018.

2. On or about December 12, 2017, Plaintiffs filed their Complaint requesting that Section 4(a) of the Session Law be found unlawful under the First and Fourteenth Amendments to the U.S. Constitution and that the Court enter declaratory and injunctive relief preventing Defendants from implementing or enforcing Section 4(a) of the Session Law. ECF No. 2, ¶ 3.

3. There is no genuine issue of material fact as to the constitutionality of Section 4(a) of the Session Law.

4. In support of this Motion, Defendants further rely upon the following exhibits attached hereto:

- **Exhibit A** – Transcript Excerpts and Exhibit No. 13 from Deposition of G. Wayne Goodwin;

- **Exhibit B** – Transcript of Deposition of Rebecca Llewellyn with Ex. Nos. 9 and 10;
- **Exhibit C** – Plaintiffs’ Objections and Responses to President Pro Tempore Berger and Speaker Moore’s First Set of Written Discovery to Plaintiffs;
- **Exhibit D** – Robin Hayes letter to North Carolina Republicans;
- **Exhibit E** – Committee Letter to Senator Berger; and
- **Exhibit F** -- Caroline Lin Transcript 10-17-17.

WHEREFORE, Defendants respectfully pray that the Court enter summary judgment in their favor, declare Section 4(a) of Session Law 2017-214 constitutional, and grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 11th day of May, 2018.

[SIGNATURE ON FOLLOWING PAGE]

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CERTIFICATE OF SERVICE

I certify that I have this day electronically filed the foregoing **Defendants' Joint Motion for Summary Judgment** with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

This the 11th day of May, 2018.

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